

The Chairman, Michael Hutson, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M. on Tuesday, August 20, 2002.

PRESENT: Kenneth Courtney
Christopher Fejes
Marcia Gies
Michael Hutson
Matthew Kovacs
Mark Maxwell
Cindy Pennington

ALSO PRESENT: Mark Stimac
Allan Motzny
Pam Pasternak

ITEM #1 – APPROVAL OF MINUTES – MEETING OF JULY 16, 2002

Motion by Maxwell
Supported by Gies

MOVED, to approve the minutes of the meeting of July 16, 2002 as written.

Yeas: 5 – Gies, Hutson, Kovacs, Maxwell, Courtney
Abstain: 2 – Fejes, Pennington

MOTION TO APPROVE MINUTES OF MEETING OF JULY 16, 2002 CARRIED

Motion by Courtney
Supported by Pennington

MOVED, to approve Items 2 through 4 and Items 6 and 7 in accordance with the suggested resolutions as presented by City Staff.

Yeas: All – 7

ITEM #2 - MOVED, to grant the request of MG Acquisitions, 2555 Crooks Road, a three (3) year renewal of their variance for relief of the 6' high masonry-screening wall required along the west property line.

- There is an existing 6' high fence at this location.
- Conditions remain the same.
- There are no complaints or objections on file.

ITEM #3 – MOVED, to grant the request of Crooks Office L.L.C., 2585 Crooks Road, a three (3) year renewal of relief granted by this Board to maintain a 6' high stockade fence in lieu of the decorative masonry screening-wall required along the west property line of their site that abuts residential zoned property.

- There is an existing 6' high fence at this location.
- Conditions remain the same.
- There are no complaints or objections on file.

ITEM #4 - MOVED, to grant the request of Oak Manor, Inc., 2316 John R., a three (3) year renewal of relief granted by this Board of the requirement for a 4'-6" high masonry screening-wall along the east and south areas of their parking lot where they are adjacent to residential zoned property.

- Adjacent properties are used for non-single family residential uses.
- Conditions remain the same.
- There are no complaints or objections on file

ITEM #6 - MOVED, to grant the request of Mick Blunden, Detroit Edison, 3080 John R., a three (3) year renewal for relief of the landscaped berms required along the north, west and east property lines.

- There are several mature trees providing screening.
- Conditions remain the same.
- There are no complaints or objections on file.

ITEM #7 - MOVED, to grant the request of PSI Holdings, Inc. 2525 Crooks Road, a three (3) year renewal of their variance for relief of the 6' high masonry-screening wall required along the west and south property line where it abuts residential zoned property.

- There is an existing 6' high fence at this location.
- Conditions remain the same.
- There are no complaints or objections on file.

ITEM #5 - Village Green Management, 2330-2488 John R. Petitioner is requesting renewal of relief granted by this Board to maintain a 5' high berm in lieu of a wall along the north property line and their northern 300' of the east property line where off-street parking abuts residential. The Zoning Ordinance requires a 4'-6" high masonry screening-wall at this location. This Board has granted this relief since 1990. This item last appeared before this Board in August 1999 and was granted a three (3) year renewal at that time. Conditions remain the same and we have no objections or complaints on file. The petitioners have now submitted a request to make this a permanent variance. They have submitted photographs showing the condition of the substantial berm that exists on the site. Mr. Stimac indicated that the photos are a correct representation of the conditions and that the adjacent use of the property is a

ITEM #5 – con't.

fully developed single residential subdivision. It is believed that this use will remain for the foreseeable future.

Mary Fogo, representing Village Green Management, was present and stated she had nothing to add.

Motion by Courtney

Supported by Maxwell

MOVED, to grant Village Green Management, 2330-2488 John R., a permanent variance for relief to maintain a 5' high berm in lieu of a wall along the north property line and their northern 300' of the east property line where off-street parking abuts residential.

- Adjacent properties are fully developed in a single- family subdivision and will remain so.
- Landscaping has matured and provides a natural buffer.
- Variance is not contrary to public interest.

Yeas: All – 7

MOTION TO GRANT VILLAGE GREEN MANAGEMENT A PERMANENT VARIANCE CARRIED

ITEM #8 – VARIANCE REQUESTED. MR. KENT MELLEBRAND, 1065 HARTLAND, for relief to construct a 576 square foot detached garage that would result in 896 square feet of accessory building where 600 square feet are permitted.

The Chairman moved this item to the end of the agenda, Item #13, to allow the petitioner the opportunity to be present.

ITEM #9 – VARIANCE REQUESTED. MAPLEWOOD COURT L.L.C., 440 E. MAPLE (PROPOSED ADDRESS), for relief to construct an 11,928 square foot multi-tenant light industrial building with parking in the front setback where a 50' landscaped front yard is required by Paragraph L of Section 31.30.00.

Mr. Stimac explained that the petitioner is requesting relief to construct an 11,928 square foot multi-tenant light industrial building with parking in the front setback where a 50' landscaped front yard is required by Paragraph L of Section 31.30.00.

This item first appeared before this Board at the meeting of July 16, 2002 and was postponed to allow the petitioner the opportunity of a full Board, and also to allow the petitioner to present the Board with an alternative plan concerning the north driveway. A revised plan showing a smaller building with a revised driveway location has been submitted. Mr. Stimac explained that the driveway has been moved out of the front yard

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setback on Maple. Mr. Stimac also indicated that the petitioner has gone with a one-way driveway system, angled parking to the north and have by a reduction in the building size and the one-way driveway system, increased the greenbelt area in this front setback to 15'.

Mr. Paul Siver and Mr. Jeff Tenniswood were present. Mr. Siver stated that they have met with the Planning Department and believe this revised plan would decrease the size of the paved surface and feels that this is a very workable plan.

Mr. Maxwell stated that he really likes the revised plan, and asked if it would be possible to get a turn right only sign leaving the northern driveway?

Mr. Courtney asked about the size of the building in the current proposal and the plan approved in 2000. Mr. Stimac indicated that the current plan is for a 11,289 square foot building and the plan in 2000 was for a 9,540 square foot building.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There is one written objection on file. There are no written approvals on file.

Motion by Maxwell
Supported by Pennington

MOVED, to grant Maplewood Court, L.L.C., 440 E. Maple (proposed address) a variance for relief to construct an 11,289 square foot multi-tenant light industrial building with parking in the front setback where a 50' landscaped front yard is required by Paragraph L of Section 30.30.00.

- Petitioner to consult appropriate City Staff regarding the feasibility of a "Right Turn Only" sign exiting the driveway.
- The corner lot location and shallow depth of the property make compliance burdensome.
- Variance is not contrary to public interest.
- Variance will not cause an adverse effect to surrounding property.
- Variance does not establish a prohibited use.

Yeas: 6 – Maxwell, Pennington, Fejes, Gies, Hutson, Kovacs
Nays: 1 – Courtney

MOTION TO GRANT VARIANCE CARRIED

ITEM #10 – VARIANCE REQUESTED. BENJAMIN TEPES, 2024 HARNED, for relief to construct an attached garage to a non-conforming structure.

Mr. Stimac explained that the petitioner is requesting relief to construct an attached garage. The site plan submitted indicates that the existing house has a 1.8' rear yard setback and 1.7' side yard setback. Section 30.10.05 requires a 40' rear yard setback, an 8' minimum side yard setback and a minimum 20' total for both side yard setbacks. The existing house is classified as a legal non-conforming structure. The proposed attached garage would expand the non-conformity with a 22' rear yard setback, a 6' side yard setback and a 7.7' total for both side yards. The expansions of the non-conforming structure are prohibited by Section 40.50.04.

In June 2002 a variance was granted to construct a detached garage in a side yard where a rear yard location is required. A new plan has been submitted revising the construction to make this an attached garage.

Mr. Courtney asked if the location of the garage has moved since the first request. Mr. Stimac explained that the detached garage was 10' north of the house.

Mr. Tepes was present and stated that he wishes to improve the value of his property and he believes he can accomplish this by attaching the garage rather than putting up a detached garage. Mr. Tepes does not believe that a detached garage would be as convenient or attractive as an attached garage. He also stated that the attached arrangement would allow him to get from the house to the garage through the protection of the covered porch.

Mr. Courtney asked if Mr. Tepes would consider moving the garage further south and Mr. Tepes stated he would like to keep this location, in order to enjoy the small backyard that he has.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are no written objections or approvals on file.

Motion by Pennington
Supported by Courtney

MOVED, to grant Benjamin Tepes, 2024 Harned a variance for relief to construct an attached garage, which will result in a 22' rear yard setback, a 6' side yard setback and a 7.7' total for both side yards.

- Variance is not contrary to public interest.
- Variance would not have an adverse effect to surrounding properties.
- The location of the existing home makes compliance difficult.
- Conformance to the Ordinance would be unnecessarily burdensome.

ITEM #10 – Con't.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #11 – VARIANCE REQUESTED. KIMBERLY TEKIP, 1183 HARTLAND, for relief to split a parcel of land into two lots in the R-1E Zoning District.

Mr. Stimac explained that the petitioner is requesting relief to split a parcel of land in the R-1E Zoning District. Section 30.10.06 of the Ordinance requires a minimum lot area of 7,500 square feet. The proposed lot split would result in two lots, each with an area of only 6,600 square feet.

Mr. Eric Salswedel of SDA Architects, was present and stated that Ms. Tekip came to them and stated that they did not want to redevelop the existing house, but wished to re-describe the lots to make them more like the surrounding lots. Mr. Salswedel also indicated that if they re-developed the structure on the existing lot, it would look out of place, as it would be larger than the existing homes in the area. Mr. Salswedel also stated that by splitting the lots, they would not be over developed.

Mr. Courtney asked what the hardship was other than financial gain and Mr. Salswedel stated that it would be because the homeowners did not want to develop a non-conforming structure. Mr. Salswedel also stated that this split would be in keeping with the area.

Mr. Fejes asked Mr. Stimac if this was a non-conforming lot. Mr. Stimac explained that the existing lot complies with the requirements of the Ordinance. Mr. Fejes also asked what the hardship would be and Mr. Salswedel stated that he had already given the reasons.

Mr. Maxwell asked what size the other lots in the area and Mr. Stimac explained that this subdivision was originally platted in the 1920's and was platted with 40' lots. A majority of the houses utilized two lots to make up one, and also that some of the property owners used three lots to make up one lot. Mr. Stimac also pointed out that the house right next door to this property was on a 40' lot. Mr. Maxwell then asked what size the lots were directly behind this property and Mr. Stimac stated that they are each 60' wide and 120' deep.

Mrs. Gies asked what the requirements were regarding setbacks for new construction on these lots. Mr. Stimac replied that in the R-1E Zoning classification, a 25' front yard setback, 35' rear and the sides are a minimum of 5' with a total of 15'. Because of the location of this lot, it is a double front corner lot and would require a 25' setback from Hartland and a 25' setback from Daley. Mr. Stimac further stated that the building envelope on the corner lot would be 1500 square feet.

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Mrs. Pennington stated that the two lots to the north are 60' x 120' and have new homes built on them and asked if they were legal non-conforming lots. Mr. Stimac stated that the Zoning Ordinance states that a lot of record, independently owned can be built on without a need for a variance. However, when someone owns a series of lots in one contiguous parcel, the owner is not allowed to split the lots to create non-conforming lots.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are two (2) written approvals on file. There are no written objections on file.

Mr. Kovacs asked if the petitioner planned to tear down the existing structure and re-build on one of the other lots. Mr. Salswedel stated that they wished to re-build on the same lot, and build another home on the other lot, which they would sell.

Mr. Hutson stated that he feels that this request is going in the wrong direction, in that the petitioner is asking to go smaller and create non-conforming lots. Mr. Hutson also stated that he did not believe the petitioner demonstrated a hardship with the land.

Motion by Courtney
Supported by Fejes

MOVED, to deny the request of Kimberly Tekip, 1183 Hartland, for relief to split a parcel of land in the R-1E Zoning District, which would result in two lots, each with an area of only 6,600 square feet where 7,500 square feet is required.

- Petitioner did not demonstrate a hardship.
- Variance would have an adverse effect on surrounding property.
- Variance would result in the creation of non-conforming lots.

Yeas: 6 – Courtney, Fejes, Gies, Hutson, Kovacs, Maxwell
Nays: 1 – Pennington

MOTION TO DENY REQUEST CARRIED

ITEM #12 – VARIANCE REQUESTED. FERNLEIGH DEVELOPMENT LLC, 3668 FERNLEIGH, 3682 FERNLEIGH, 3696 FERNLEIGH (PROPOSED ADDRESSES), for relief to construct three (3) single family homes on two existing 80' wide lots and one lot which is 82.92' wide.

Mr. Stimac explained that the petitioner is requesting relief to construct three (3) single-family homes on two existing 80' wide lots and a third lot which is 82.92' wide (as measured at the front setback line). These parcels are located in an R-1C Zoning District. Section 30.10.04 of the Zoning Ordinance requires an 85' minimum lot width in

ITEM #12 – con't.

the R-1C Zoning District. In December of 2001 a split request was submitted and approved by the City Assessor's Office to split the property into the parcels currently shown. However the lots fail to meet the minimum lot width requirement. The petitioner is now applying for building permits for the three homes and those permits have been denied because of the width deficiency.

Mr. Joe Maniaci was present and stated that when the property was purchased the City told them that they would be able to get four (4) legal lot splits. Subsequently, after the property was purchased and split, they sold the existing home that was there. Mr. Maniaci indicated that he was not aware that he could not build on this property until he submitted for his building permits. Mr. Maniaci also stated that if he had known he did not have enough room to build, he would have taken down the garage on the existing home and that would have given him the room he required, however he can no longer do this as the property has been sold. Mr. Maniaci also indicated that the proposed homes meet all the setback requirements of the Ordinance and also that the homes will be in keeping with the other homes in the area.

Mr. Maxwell asked about access to Parcel B of this proposal and Mr. Maniaci replied that access to the back of this parcel will be from the newly developed street, Springtime to the east. Mr. Maxwell asked if Mr. Maniaci planned to build a home at the front of the lot, and Mr. Maniaci stated he did.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There is one written objection on file. There are no written approvals on file.

Motion by Kovacs
Supported by Maxwell

MOVED, to grant Fernleigh Development, L.L.C., 3668 Fernleigh, 3682 Fernleigh, 3696 Fernleigh, (proposed addresses) relief to construct three (3) single-family homes on two existing 80' wide lots and one lot which is 82.92' wide.

- Variance is not contrary to public interest.
- Variance will not cause an adverse effect on surrounding property.
- Conformance will be unnecessarily burdensome.
- There was sufficient width in the original parcel to develop four building sites.

Yeas: All – 7

MOTION TO GRANT REQUEST CARRIED

Mr. Hutson stated that there was a request from Mr. Murray Scott at 3831 Kingspoint for reconsideration of his request of May 21, 2002 regarding the height of an amateur radio

tower. Mr. Hutson stated that the petitioner had submitted additional documents for the Board's review.

Mr. Stimac stated that there are special circumstances in the Zoning Ordinances when considering the height of amateur radio towers. In the original motion from May of 2002, the Board indicated that the petitioner failed to meet the requirements of Section 43.80.00. Mr. Stimac also stated that the documents submitted by the petitioner in seeking reconsideration specifically address the issue of being able to communicate with a tower that is 25' tall. Mr. Stimac also stated that it is up to the Board to determine whether the information provided is enough to justify re-consideration of this request.

Mr. Hutson stated that under the "Roberts Rules of Order", those that voted to deny are the only ones who can move to reconsider this action.

Mr. Maxwell asked Mr. Scott if he would be able to accept any tower, which would be less than 50'. Mr. Scott stated that he probably should have asked for a tower that was 75' high in order to allow him to communicate more completely. Mr. Scott also stated that he would be able to reach a much greater area with a higher tower. Mr. Maxwell also pointed out that in one of the documents provided by Mr. Scott stated "local authorities may adopt regulations pertaining to placement, screening or height of antennas if such regulations are based on health, safety or aesthetic considerations". Mr. Maxwell also pointed out that a number of Mr. Scott's neighbors were present and objected to this antenna.

Motion by Maxwell
Supported by Gies

MOVED, to reconsider the request of Mr. Murray Scott, 3831 Kingspoint for relief to construct a 50' high amateur radio tower.

- To allow the petitioner the opportunity of a full board.
- New evidence presented by the petitioner.

Yeas: All – 7

MOTION TO APPROVE RECONSIDERATION OF MR. MURRAY SCOTT'S REQUEST
CARRIED.

Motion by Courtney
Supported by Fejes

MOVED, to postpone the request of Mr. Murray Scott, 3831 Kingspoint, for relief of the Zoning Ordinance to construct a 50' high radio antenna structure until the next regularly scheduled meeting of September 17, 2002.

- To allow the Building Department to inform the residents that this matter is being reconsidered by this Board.

Yeas: All – 7

MOTION TO POSTPONE REQUEST UNTIL THE MEETING OF SEPTEMBER 17, 2002 CARRIED.

ITEM # 13 – (ITEM #8) – VARIANCE REQUESTED. MR. KENT MELLEBRAND, 1065 HARTLAND, for relief to construct a 576 square foot detached garage that would result in 896 square feet of accessory building where 600 square feet are permitted.

Motion by Fejes
Supported by Courtney

MOVED, to postpone the request of Mr. Kent Mellebrand, 1065 Hartland, until the meeting of September 17, 2002, for relief to construct a 576 square foot detached garage that would result in 896 square feet of accessory building where 600 square feet are permitted.

- To allow the petitioner the opportunity to be present.
- If petitioner is not present at the next meeting, the Board will take a final vote.

Yeas: All – 7

MOTION TO POSTPONE REQUEST UNTIL THE MEETING OF SEPTEMBER 17, 2002 CARRIED

The Board of Zoning Appeals meeting adjourned at 8:36 P.M.

MS/pp